

and

**Sarah Morrisson
Taft, Stettinius & Hollister
65 East State Street, Suite 1000
Columbus, OH 43215**

and

**Elizabeth Watters
345 South High Street, Courtroom 5C
Columbus, OH 43215**

Respondents

MUR # 6601

COMPLAINT

Complainant files this complaint under 2 U.S.C. § 437g(a)(1) against the Turkish Coalition of America; The Turkish American Legal Defense Fund; G. Lincoln McCurdy; Bruce Fein; David Saltzman; Don Brey; Sarah Morrison; and Elizabeth Watters for violations of the Federal Elections Campaign Act (FECA or The Act), as described below.

A. FACTS

Complainant is David Krikorian, a citizen of the United States of America.

Upon information and belief, respondent Turkish Coalition of America (TCA) is a Massachusetts Corporation registered with the Internal Revenue Service as tax exempt under Section 501(c)(3) of the Internal Revenue Code with offices in Boston, Massachusetts; Washington, D.C.; and Istanbul, Turkey.

Upon information and belief, respondent Turkish American Legal Defense Fund (TALDF) is the alter ego of the Turkish Coalition of America and has no separate legal existence.

Upon information and belief, respondent G. Lincoln McCurdy is the president and treasurer of respondent TCA and, as part of his duties, oversees the activities of respondent TALDF.

Upon information and belief, respondent Bruce Fein is an attorney with the law firm of Fein and Associates and provided legal services to Rep. Jean Schmidt and/or Schmidt for Congress Committee beginning in 2008 and continuing into 2011 for which he was paid by respondent TCA.

Upon information and belief, respondent David Saltzman is an attorney with the law firm of Saltzman & Evinch, P.C. and provided legal services to Rep. Jean Schmidt and/or Schmidt for Congress Committee beginning in 2008 and continuing into 2011 for which he was paid by respondent TCA.

Upon information and belief, respondent Don Brey is an attorney with the law firm of Taft, Stettinius & Hollister (formerly Chester, Wilcox & Saxbe) and provided legal services to Rep. Jean Schmidt and/or Schmidt for Congress Committee beginning in 2008 and continuing into 2011 for which he was paid by respondent TCA.

Upon information and belief, respondent Sarah Morrison is an attorney with the law firm of Taft, Stettinius & Hollister (formerly Chester, Wilcox & Saxbe) and provided legal services to Rep. Jean Schmidt and/or Schmidt for Congress Committee beginning in 2008 and continuing into 2011 for which she was paid by respondent TCA.

Upon information and belief, respondent Elizabeth Watters is currently a Magistrate in the Court of Common Pleas of Franklin County, Ohio, but was formerly an attorney with the law firm of Chester, Wilcox & Saxbe (now Taft, Stettinius & Hollister) and provided legal services to Rep. Jean Schmidt and/or Schmidt for Congress

Committee beginning in 2008 and continuing into 2011 for which she was paid by respondent TCA.

Based upon information and belief and the recent findings of the House Committee on Ethics,¹ TCA has, since 2008 and continuing into 2011, paid the legal expenses of Rep. Jean Schmidt personally, and those of Schmidt for Congress Committee in violation of 2 U.S.C. § 441b(a). Based upon a recent finding by the House Ethics Committee, these payments total approximately \$498,587 for years 2008, 2009, and 2010,^{2,3} a violation of 2 U.S.C. §§ 441a(a)(1)(A) and 441b(a). On May 15, 2012 Rep. Schmidt filed her calendar year 2011 Financial Disclosure Form. This filing indicates that TCA paid \$152,658.29 for legal expenses incurred by Rep. Schmidt in 2011.⁴ Presumably these payments were made before the House Ethics Committee ordered them stopped in August of 2011.

¹ A copy of the Statement of the Chairman and Ranking Member of the Committee on Ethics Regarding Representative Schmidt is attached as Exhibit A. This is also available online at http://ethics.house.gov/sites/ethics.house.gov/files/20120805%20Schmidt%20Press%20Release_0.pdf

² House Committee on Ethics Report 112-195 "In the Matter Regarding Allegations Relating to Representative Schmidt." Available through the House Ethics Committee website at <http://www.gpo.gov/fdsys/pkg/CRPT-112hrpt195/pdf/CRPT-112hrpt195.pdf> Page 46 of the .pdf file. Henceforth, "The Report."

³ On January 3, 2012, Rep. Schmidt filed an amended financial disclosure with the House Clerk's Office indicating payments by TCA of \$162,888.20 in 2009 and \$267,221.70 in 2010. She did not indicate the amount of the 2008 payments or the 2011 payments. The discrepancy with the amounts reported by the Ethics Committee is not explained. Rep. Schmidt's amended financial disclosure is attached as Exhibit B.

⁴ Jean Schmidt Financial Disclosure Form A, dated May 15, 2012 page 12. Attached as Exhibit C.

B. LITIGATION HISTORY

In the Congressional election of November 2008, Rep. Schmidt ran against David Krikorian. Since the 2008 campaign, Rep. Schmidt has been involved in four complaints or lawsuits arising from, directly or indirectly, the 2008 campaign. In each action Rep. Schmidt was represented by lawyers paid by TALDF, an alter ego of TCA. Her primary attorneys were Respondents Bruce Fein and Don Brey. In addition to Messrs. Fein and Brey, TCA has paid for the legal services of Respondents David Saltzman, Sarah Morrison, and Elizabeth Watters⁵, for work done on behalf of Rep. Schmidt. All of this work was paid for by TCA.⁶

Ohio Election Commission

In the waning days of the 2008 election Mr. Krikorian distributed leaflets accusing Rep. Schmidt of, inter alia, taking "blood money" with respect to her position on the Armenian Genocide issue. Shortly after the election Rep. Schmidt filed a complaint against Mr. Krikorian with the Ohio Elections Commission (OEC) regarding those accusations.

In the course of the OEC case, respondent Bruce Fein and Barry Bennett (Rep. Schmidt's then chief of staff) provided deposition testimony. It is rather unusual for an attorney on a case to be deposed, and what Mr. Fein revealed was no less unusual.

Under oath Fein revealed that shortly after the 2008 election, he, on behalf of TCA/TALDF, approached Schmidt with the offer of free legal services: "I was asked by

⁵ The Report, Supra. Page 196 of the .pdf file. This is a copy of a bill sent by Chester, Wilcox & Saxbe to TCA which indicates billable hours for Mr. Brey, Ms. Morrison, and Ms. Watters, all partners at the firm according to the firm's website, along with billable hours for Christopher Murphy, identified in the bill as a law clerk.

⁶ *Id.*, page 11 of the .pdf file.

Lincoln McCurdy if I would as part of TALDF go speak with Jean Schmidt about possibly representing her in what ultimately eventuated in this administrative complaint [the OEC action].”⁷ Mr. Fein stated unambiguously, “We said we would do this and we would not charge them legal fees.”⁸ Further, Mr. Fein also stated that he and the other attorneys were representing both Rep. Schmidt personally, and the Schmidt for Congress Committee.⁹ Respondent Don Brey also stated that they were representing both Rep. Schmidt personally, and her campaign committee during Barry Bennett’s deposition.¹⁰ Barry Bennett revealed that Rep. Schmidt never sought the approval of either the House Ethics Committee¹¹ or the FEC for this arrangement.

As discussed later in this complaint, the House Ethics Committee has found that respondents Fein, Brey, Saltzman, Morrison, and Watters were compensated by respondent TCA for their services to Rep. Schmidt. According to deposition testimony taken in the course of the OEC action, respondent TCA also paid the travel and lodging expenses of a witness in the OEC action, as well as those of the attorneys.¹² All of these expenses, along with all other litigation related expenses, were ultimately paid by Respondent TCA.

⁷ Deposition of Bruce Fein, page 56-57. Attached as Exhibit D.

⁸ *Id.*, page 60, line 5-6. Exhibit D.

⁹ *Id.*, page 59, line 16-22. Exhibit D.

¹⁰ Deposition of Barry Bennett, page 52, line 5-8. Attached as Exhibit E.

¹¹ *Id.*, page 48, line 5-15, 21-24, and page 49, line 8. Exhibit E.

¹² Deposition of Bruce Fein, *Supra*, at page 94, lines 1-15. Exhibit D

Appeal of OEC Findings

The OEC Complaint resulted in approximately half of the allegations against Krikorian being dismissed, and the OEC finding that half of the allegations were in fact "False Statements" under Ohio law. Krikorian filed an administrative appeal of that decision in the Franklin County Ohio Common Pleas Court (Case No. 09CV017707 and 09CV017709), in which Rep. Schmidt, using the same attorneys, participated as appellee. The House Ethics Committee has found that the costs incurred by Rep. Schmidt in this matter, including attorneys' fees, have also been paid for by Respondent TCA, and that such payment was impermissible under House Ethics Rules.

Federal Court Proceedings

After the OEC action, Krikorian filed a separate complaint in the United States District Court for the Southern District of Ohio (Case No. 1:10-CV-00103) against the Ohio Elections Commission. Rep. Schmidt was not a party to this action. However, using the same attorneys, Rep. Schmidt moved to participate as amicus curiae in that federal action. The House Ethics Committee has found that the costs incurred by Rep. Schmidt in this matter, including attorneys' fees, have been paid for by Respondent TCA. The Ethics Committee further found that such payment constituted an impermissible gift.

Clermont County Ohio Common Pleas Court Defamation Action

Finally, in June of 2010, Rep. Schmidt filed a lawsuit in Clermont County Ohio Court of Common Pleas accusing Krikorian of defamation, and seeking more than \$6 million in damages. Again, Rep. Schmidt used respondents Mr. Fein and his law firm, and Mr. Brey and his firm in filing these pleadings. The House Ethics Committee has found that the costs incurred by Rep. Schmidt in this matter, through at least the end of

2010, including attorneys' fees, have been paid by respondent TCA. The Ethics Committee further found that such payment constituted an impermissible gift.

C. HOUSE COMMITTEE ON ETHICS

Only recently, after the House Committee on Ethics investigated this payment scheme and determined that these payments constitute impermissible gifts, has Rep. Schmidt acknowledged these payments in any way. The House Committee on Ethics has ordered Rep. Schmidt to amend her 2009 and 2010 financial disclosure forms to identify these payments as gifts, and going forward, to identify this as an obligation that she must repay.¹³ Prior to the Ethics Committee Report, Rep. Schmidt failed to document these services and payments in any way: not as a gift, not as a campaign contribution, nor as a legal expense either personally or of the campaign committee.

In July of 2010, Krikorian submitted a complaint to the Office of Congressional Ethics (OCE) regarding this payment scheme. In response to this complaint, the OCE investigated Rep. Schmidt and voted unanimously to recommend the matter for further investigation by the House Committee on Ethics (Ethics Committee).

The Ethics Committee investigated the matter and made a number of findings released in The Report. Among those findings, the Ethics Committee determined that respondent TCA did in fact pay Rep. Schmidt's legal bills; that those payments totaled approximately \$498,587 through the end of 2010; and the Ethics Committee found that these payments constituted impermissible gifts. The Ethics Committee found that Rep. Schmidt did not know of this payment scheme, and thusly did not knowingly accept an

¹³ The Report, page 11 of the .pdf file. Inexplicably, the House Ethics Committee did not require Rep. Schmidt to amend her 2008 financial disclosure forms to identify the impermissible gift of the 2008 payments made by TCA.

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illegal gift. By so finding, The Ethics Committee absolved Rep. Schmidt of violating the Ethics in Government Act and House Rules. Rather, the Ethics Committee determined that the respondent attorneys misled Rep. Schmidt regarding the payment arrangement. While I find Rep. Schmidt's protestations that she did not know of this scheme incredible, especially in light of the sworn testimony of one of her attorneys and her chief of staff; court filings made in her name; and representations made by her attorneys in open court, all of which clearly indicated, to anyone paying attention, that respondent TCA was providing for these services at no charge to Rep. Schmidt. In spite of these fundamental contradictions, the Ethics Committee found cause to accept that story.¹⁴

In accepting Rep. Schmidt's version of events, the Ethics Committee ruled that Rep. Schmidt must amend her 2009 and 2010 Financial Disclosure Forms to indicate that she received these gifts in those years. Further, the Ethics Committee ordered Rep. Schmidt to repay these gifts, allowing her to use a legal expense fund for this purpose if she so chose. However, the Ethics Committee ruled that Rep. Schmidt may not use the proceeds of a legal expense fund to pay the expenses related to her amicus filing in the Federal Court case.^{15,16} With respect to the payments for the amicus filing the Ethics

¹⁴ Indeed, I am not alone in finding this preposterous. Citizens for Responsibility and Ethics (CREW) filed a complaint with the Office of Congressional Ethics and the U.S. Department of Justice, charging that Rep. Schmidt made knowingly false statements to investigators when she claimed ignorance of this payment scheme. A copy of that complaint is attached as Exhibit F.

¹⁵ The House Ethics Committee, in a rather Rube Goldbergian fashion, concocted a solution which requires Rep. Schmidt to refund this impermissible gift by giving money to the attorneys, and for the attorneys to turn around and send that refund to the TCA. In this convoluted manner, Rep. Schmidt can technically be said to be paying her attorneys (who of course have already been paid by TCA, that is the problem), even as her attorneys then turn the money over to TCA.

¹⁶ Recently Schmidt for Congress requested FEC permission to refund the payments related to the amicus briefs using campaign funds. This request was initially styled AOR 2011-20 but was subsequently withdrawn from the FEC website by the FEC Office of General Counsel.

Committee ordered Rep. Schmidt to "pay those fees immediately and provide the Committee with a cancelled check as proof of payment of the legal services related to the amicus brief."¹⁷

During its investigation into this payment scheme, the Office of Congressional Ethics reviewed invoices submitted by the respondent attorneys to TCA and approximated the payments by year as, \$3905 in 2008, \$289,280 in 2009, and \$205,401 in 2010. The Office of Congressional Ethics did not review invoices for 2011 even though this payment scheme continued until the Ethics Committee ordered it stopped on August 5, 2011.

D. ADVISORY OPINION REQUEST

On October 13, 2011, the FEC received a letter from Phil Greenberg, treasurer of Schmidt for Congress ("The Greenberg Letter"). That letter was accepted as an Advisory Opinion Request, identified as AOR 2011-20 and posted on the FEC website for public comment.

The Greenberg Letter sought FEC approval to use campaign funds to refund the payments made by respondent TCA to respondent attorneys related to the amicus brief Rep. Schmidt filed in the Federal Court challenge to the Ohio Election Commission Action. The House Ethics Committee had specifically prohibited Rep. Schmidt from using the proceeds of her legal expense fund to refund these particular payments. Thus, the Greenberg Letter was a desperate attempt by Rep. Schmidt to avoid having to reach into her own pocket to refund these payments.¹⁸ However, before the statutory period for

¹⁷ The Report, p. 19

¹⁸ Rep. Schmidt reported to the House Ethics Committee, that sadly, she did reach into her own pocket to refund the payment for the amicus filing to the tune of \$42,812.82.

public comment on the Greenberg Letter expired, the letter was removed from the FEC website without explanation.

While some may see the Greenberg Letter as merely a desperate attempt to protect Rep. Schmidt's personal wealth, it is actually much more than that. The Greenberg Letter is in fact a perfect indictment against respondents. The Greenberg Letter makes crystal clear that the "legal expenses at issue resulted from campaign or officeholder activities..."¹⁹ It is axiomatic that if the legal expenses resulted from campaign or officeholder duties, then if a third party paid those expenses, such payment must necessarily have been a campaign contribution. As such, respondents' own client, by virtue of the Greenberg Letter, has tied a bow around this very complaint.

E. PAYMENTS BY SCHMIDT FOR CONGRESS

On November 24, 2011, after the Ethics Committee ordered a stop to the illegal payment scheme, Schmidt for Congress paid \$1,122.90 to Chester, Wilcox & Saxbe (now known as Taft, Stettinius & Hollister), the law firm of respondents Brey and Morrison.²⁰ In January 2, 2012, Schmidt for Congress paid an additional \$6,528.88 to Chester, Wilcox & Saxbe.²¹ The purpose of both disbursements is listed as "Legal Services." While it is certainly conceivable that Schmidt for Congress could have had need for legal services for issues other than the defamation action at this time, oral arguments on the appeal in the defamation case were held on January 17, 2012. As such the timing of the

¹⁹ Greenberg Letter, page 2 (quoting 1995 Personal Use E&J at 7,867). Attached as Exhibit G.

²⁰ Schmidt for Congress Year End filing 2011. Attached as Exhibit H.

²¹ Schmidt for Congress Pre-Primary filing 2012. Attached as Exhibit I.

payments would seem to indicate that Schmidt for Congress took over paying for the defamation action.

Schmidt for Congress, by making such payments, and respondents Fein and Morrison, by accepting such payments, clearly accept and acknowledge that respondents were providing legal services to Schmidt for Congress, and that such services were not personal to Rep. Schmidt.

F. PAYMENTS BY REP. SCHMIDT PERSONALLY

On January 30, 2012, Rep. Schmidt reported to the House Ethics Committee that she had complied with the Ethics Committee order that she refund the payments made for the amicus briefs in the Federal Court action. The costs associated with the amicus briefs totaled \$42,812.82.²² Rep. Schmidt's spokesman is reported to have told the Cincinnati Enquirer that this refund was made with Rep. Schmidt's personal funds, thus this refund is separate and distinct from the payments made by Schmidt for Congress in November 2011 and January 2012.²³ Rep. Schmidt, by making this refund, and respondents, by accepting this refund, clearly accept and acknowledge that respondent TCA had in fact paid legal bills that should have been charged to Rep. Schmidt, and that respondent attorneys had in fact accepted payments from TCA which should have come from Rep. Schmidt.

While it appears that Rep. Schmidt has complied with the Ethics Committee order to refund the payments for the amicus briefs, she can hardly be said to have fully complied. First, she was ordered to make the refund "immediately" in August 2011, but

²² Schmidt Letter to Ethics Committee dated January 30, 2012. Attached as Exhibit J.

²³ Cincinnati Enquirer, "Schmidt legal fund gets one donation" January 31, 2012. Attached as Exhibit K. Presumably, in accordance with the Ethics Committee ruling, Respondent attorneys disgorged this refund back to Respondent TCA upon receipt of the \$42,812.82.

did not do so until January 2012 (hardly immediately under any circumstances); and second, she was ordered to provide copies of cancelled checks as proof that the refunds had in fact been made. Such checks are not included in the filing made with the House Clerk, so it appears that she did not comply by that directive.

G. REQUEST FOR INVESTIGATION

While I believe that the Ethics Committee was correct: this payment scheme was a gift under the House Ethics rules; the payment of Rep. Schmidt's legal bills by a third party also constitute campaign contributions under the FECA. And in fact, these gifts are illegal campaign contributions as respondent TCA is a corporation, specifically, a tax-exempt 501(c)(3) corporation. Additionally, these contributions are excessive as they are far greater than the contribution limits set forth by the FECA.

I request that the Federal Election Committee undertake an investigation of these payments and forward their findings to the appropriate law enforcement agencies for prosecution.

H. LEGAL ARGUMENT

1: Third party payments of campaign committee legal expenses are contributions

2 U.S.C. § 431(8)(A)(ii) defines "contribution" to include "the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose." 11 CFR 100.54 provides two exceptions to this rule, those payments made for legal and accounting services as provided for by 11 CFR 100.74 and 100.75.

The exception in 11 CFR 100.74 covers "Uncompensated services by volunteers," and does not apply in this situation because the respondent attorneys were compensated by respondent TCA.

11 CFR 100.75 covers "Use of volunteer's real or personal property" and is likewise inapplicable here.

There is an additional exception to this rule for legal services provided to ensure compliance with the Act.²⁴ However, the legal services paid by respondent TCA in this instance were not paid by the regular employer of the respondent attorneys, as none of the respondent attorneys are employees of respondent TCA, nor were the services for the purpose of complying with the Act.

Advisory Opinion 2006-22 dealt with a similar issue. In that instance, a law firm sought guidance regarding its desire to provide free legal services in the preparation of an **amicus brief** on behalf of the campaign committee of a candidate for Congress. The Commission concluded in that such an arrangement would be a contribution under federal law as the "payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose."²⁵ Further, the Commission concluded that the contribution would be impermissible because the payment, and thusly the contribution, would be made by a corporation.

In its report on the investigation of Rep. Schmidt, the House Ethics Committee found that these legal expenses were related to Rep. Schmidt's candidacy.²⁶ And Rep.

²⁴ See 2 U.S.C. § 431(8)(B)(viii)(II); 11 CFR 100.86 and 114.1(a)(2)(vii).

²⁵ 2 U.S.C. 431(8)(A)(ii).

²⁶ The Report, page 20 of the .pdf file.

Schmidt herself, in both public statements and her communications with the Ethics Committee acknowledged that these were "...legal costs that have been and will be incurred in connection with legal action **directly related to my candidacy** for federal office in 2008."²⁷ Likewise, Schmidt for Congress, speaking through its treasurer in the Greenberg Letter stated that, "legal expenses at issue resulted from **campaign or officeholder activities...**"²⁸ Like AO 2006-22, the Greenberg Letter was specifically addressing the costs associated with the preparation and filing of an amicus brief.

The very fact that the House Ethics Committee has approved the use of a legal expense fund for most of these expenses necessarily means that these expenses cannot be solely, or even primarily personal because the House Ethics Committee "**shall not grant** permission to establish a Legal Expense Fund where the legal expenses arise in connection with a matter that is primarily personal in nature."²⁹ Thus, Rep. Schmidt, by requesting permission to establish a legal expense fund, and the House Ethics Committee, by approving the legal expense fund, necessarily must have determined that these expenses (and the payments by TCA) are not primarily personal in nature.

In his deposition testimony, Barry Bennett (Rep. Schmidt's then Chief of Staff), explaining why he believed that the House Ethics Committee did not need to approve the payment scheme, stated that the Ohio Elections Commission action was specifically tied to the campaign:

²⁷ Rep. Schmidt's letter to the House Ethics Committee requesting permission to establish a Legal Expense Fund, dated July 19, 2010. The Report, page 439 of the .pdf file; Rep. Schmidt repeated this statement in a second letter to the Ethics Committee seeking approval on August 11, 2010. The Report page 441 of the .pdf file [emphasis added].

²⁸ Greenberg Letter, page 2 (quoting 1995 Personal Use E&J at 7,867), Exhibit G, Supra.

²⁹ House Ethics Manual – 2008 Edition, page 395 (page 407 of the pdf). Available online at http://oce.house.gov/pdf/2008_House_Ethics_Manual.pdf [emphasis added].

Q. Well how does this deal with the campaign?

A. With the -- this happened in the course of the campaign. The -- the commission where this is filed [Ohio Elections Commission] deals with the campaigns, not the House of Representatives.³⁰

Mr. Bennett was correct. The Ohio Elections Commission exists solely to adjudicate matters relating to elections and campaign related activities. As such, the expenses incurred in actions before the Ohio Elections Commission must necessarily be campaign related.

Finally, it appears that Schmidt for Congress has recently taken over paying the legal expenses associated with the defamation action. As such, both the client and the respondent attorneys are communicating their belief that the legal fees related to that matter must be campaign related. For otherwise, Rep. Schmidt would be converting campaign funds to personal use each time Schmidt for Congress makes payments to respondent attorneys.

The sworn deposition testimony of Barry Bennett and Rep. Schmidt's own statement in her request to the House Ethics Committee make it indisputable that it is the position of Rep. Schmidt and Schmidt for Congress Committee that the legal expenses which were paid by TCA were campaign related, and as such the payments by TCA constitute campaign contributions. Furthermore, the establishment, funding of, and any distributions from, the legal expense fund in repayment of these prior payments by TCA constitute admissions that these expenses are campaign related and that the payments for such by TCA were necessarily campaign contributions. Additionally, the Greenberg

³⁰ Bennett deposition, page 48. See also, Bennett deposition, page 47 beginning at line 6. Exhibit E.

Letter provides damning evidence that these payments were campaign contributions. Finally, that Schmidt for Congress has taken over payment for the legal services proves conclusively that the legal expenses, for which respondent TCA had been making payment to respondent attorneys, must have been campaign related. And therefore, respondent TCA, in paying those legal expenses, was making a campaign contribution.

A key distinction between AO 2006-22 and the present facts, is that the attorneys in AO 2006-22 would have been paid by their regular employer, while respondent attorneys were paid by a third party (respondent TCA), not their regular employer. As such, this case is even more clearly a violation of FECA than AO 2006-22. Respondent TCA has in fact specifically admitted that it is not the regular employer of respondent attorneys identifying the payments made to their respective law firms as being made to independent contractors in its 2010 tax filings.³¹

2: Third party payments for personal expenses are contributions.

It may be argued that the legal services were provided only to Rep. Schmidt individually, and not to Schmidt for Congress Committee – notwithstanding the contrary statements by the Respondent attorneys, Rep. Schmidt’s own statements to the House Ethics Committee, or the testimony of Rep. Schmidt’s former chief of staff as detailed above. However, even assuming that these legal services were provided only to Rep. Schmidt personally, 11 CFR 113.1(g)(6) provides that third party payments for personal expenses are contributions, unless the payment would have been made irrespective of the candidacy.

³¹ Turkish Coalition of America Form 990 for Year 2010, Part VII, Section B. Attached as Exhibit L.

In the course of his deposition, Bruce Fein stated unequivocally that he did not know Rep. Schmidt prior to the 2008 election,³² and that he was asked to contact her by the president of TCA only because of her candidacy, and the events during the campaign.³³ By their own admission, TCA would not have made the third party payments but for Rep. Schmidt's candidacy for Congress. Finally, the president of TCA, Lincoln McCurdy, the man who directed Mr. Fein to Rep. Schmidt for the purpose of initiating this payment scheme, told the Office of Congressional Ethics investigator that he first met Rep. Schmidt at a fundraiser where he overheard her speaking about the Armenian Genocide issue (the very issue at the heart of all of the legal matters for which TCA paid) and that her statements on the Armenian Genocide issue prompted him to introduce himself to Rep. Schmidt.^{34, 35} As such, the genesis of the relationship between Rep. Schmidt and TCA was directly related to her status as a candidate, and actions she took as an officeholder, and the payments to Rep. Schmidt's attorneys made by TCA would not have been made but for Rep. Schmidt's status as a candidate.

Further, as noted above, the initial proceeding was before the Ohio Elections Committee, a body that exists solely for the purpose of settling campaign related disputes.

³² Fein deposition, page 182. "I did not even know who Jean Schmidt was until after the election." Exhibit D.

³³ *Id.*, page 56-57. Exhibit D.

34 Memorandum of Interview with the president of TCA, The Report, page 62 of the .pdf file.

35 According to the first paragraph in the Memorandum of Interview, it is my understanding that Lincoln McCurdy's statement to the investigator was made after a warning that a false statement by Mr. McCurdy was punishable by a fine and/or up to five years imprisonment pursuant to 18 U.S.C. § 1001.

The Greenberg Letter shows conclusively that it is the position of the client, Jean Schmidt and/or Schmidt for Congress, that the legal fees arose out of campaign or officeholder duties.

Therefore, it is incontrovertible that even if these payments were made solely on behalf of Rep. Schmidt personally, the payments were not made irrespective of Rep. Schmidt's candidacy, and are, as a matter of law, contributions to the Schmidt for Congress Committee.

Further analysis of this issue was provided by two FEC advisory opinions: AO 2006-22, discussed above, and AO 2000-08. Both are instructive as to how the FECA is to apply to third party payments such as these.

In Advisory Opinion 2000-08, a Mr. Philip Harvey sought advice as to the legality of his desired gift of \$10,000 to a candidate for federal office. Mr. Harvey wished to express his gratitude to that individual for his willingness to "engage in a difficult and time-consuming campaign."³⁶ On the face of the request, it did not appear that Mr. Harvey was motivated by anything other than public spirit. Nonetheless, the FEC found that such a gift would constitute a campaign contribution because "the proposed gift would not be made but for the recipient's status as a Federal candidate," and is, "therefore linked to the Federal election."³⁷

The facts here implicate both AO 2000-26 and AO 2000-08 in that the "gift" of the payment of approximately \$500,000 of legal expenses was "payment by any person [respondent TCA] of compensation for the personal services of another person [respondent attorneys] which were rendered to a political committee without charge for

³⁶ AO 2000-08.

³⁷ AO 2000-08, page 3.

any purpose," and the payor is a corporation, respondent TCA. Implicating AO 2006-22. And, that "gift" would not have been made "but for the recipient's status as a Federal candidate."³⁸ Implicating AO 2000-08. Applying either it is clear that the payment of Rep. Schmidt's legal bills by respondent TCA was an impermissible campaign contribution because it was both excessive and from an impermissible source.

Under any one of a number of rationales, the payment by respondent TCA of the legal expenses of Rep. Schmidt and the Schmidt for Congress Committee constitutes a campaign contribution by respondent TCA.

3: The contributions at issue are excessive

FECA places limitations and prohibitions on the amounts and sources of contributions to a federal election campaign. For the 2008 campaign, the limit for contributions was \$2300. For the 2010 campaign, the limit was \$2400. For the 2012 campaign the limit was \$2500.

The amount of the contribution in this instance, the value of the legal services provided and compensated for by respondent TCA, totals approximately \$489,587 over three years, according to the findings of the House Ethics Committee; well in excess of the limits. Further, this payment scheme continued until at least August 2011 when the House Ethics Committee ruled that Rep. Schmidt must not allow respondent TCA to continue paying respondent attorneys.

4: The contributions at issue are impermissible

The campaign committee of a candidate for federal office is permitted to raise money only from certain sources, including individuals, partnerships, and political action

³⁸ AO 2000-08, p. 3

committees.³⁹ Corporations are barred from making contributions to candidates for federal office.⁴⁰

Respondent TCA is a corporation, incorporated in the State of Massachusetts, and exempt from taxation under I.R.C. § 501(c)(3). As a corporation, respondent TCA is prohibited from making a contribution. This also follows the analysis provided in AO 2006-22 as discussed above.

Because respondent TCA is a corporation and thus prohibited from making contributions to Schmidt for Congress Committee, the contributions made by respondent TCA are impermissible.

5: The contributions at issue have been concealed

"Each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the provisions of this subsection."⁴¹ According to the findings of the Ethics Committee, respondent TCA began making these payments on Rep. Schmidt's behalf in 2008.⁴² The treasurers of the Schmidt for Congress Committee are thusly required to file and sign each report during their respective tenures. Campaign committees are required to report the source and amount of any excess contributions.⁴³ At no time has the Schmidt for Congress Committee reported these contributions.

The House Ethics Committee, in its investigation into this payment scheme, found that Rep. Schmidt was unaware of the payment scheme because respondent attorneys

³⁹ See 2 U.S.C. § 441a.

⁴⁰ 11 CFR 114.2(b)(1).

⁴¹ 2 U.S.C. § 434(a)(1).

⁴² The Report, page 9 of the .pdf file.

⁴³ 2 U.S.C. § 434(a)(6)(C).

concealed the payment scheme from her.⁴⁴ While, as noted above, this finding is rather incredible, if the Ethics Committee is correct, if respondents did not inform Rep. Schmidt or her campaign committee of this payment scheme, it would appear that the respondents have actively subverted the campaign contribution reporting requirements by concealing the existence and source of excessive, impermissible contributions. It is important to note that none of the respondents have disputed the findings of the House Ethics Committee.

I. CONCLUSION

Regardless of whether the legal expenses were personal to Rep. Schmidt or expenses of the Schmidt for Congress Committee, or some combination of both, by paying these expenses, Respondent TCA has made contributions to the Schmidt for Congress committee in an amount equal to the value of the legal expenses. Because these payments were not made irrespective of Rep. Schmidt's candidacy, any portion of the legal expenses that is personal to Rep. Schmidt constitute contributions under 11 CFR 113.1(g)(6). That portion of the legal expenses that was in service of Schmidt for Congress Committee constitutes contributions under 11 CFR 100.54. Thus, all payments of the legal expenses of Rep. Schmidt individually and the Schmidt for Congress Committee by Respondent TCA are contributions to the Schmidt for Congress Committee.

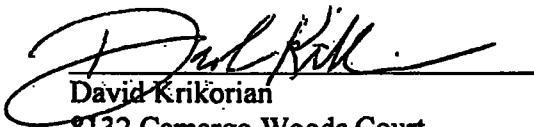
⁴⁴ The Report, page 25 of the .pdf file. "The Committee is troubled that the lawyers associated with TALDF never disclosed their payment arrangement with TCA to Representative Schmidt."

The value of the legal expenses paid for by TCA through 2011 was between \$500,000 and \$1,000,000 according to filings Rep. Schmidt made with the House Ethics Committee..⁴⁵ This is far in excess of the contribution limits set forth in FECA.

The source of these excessive contributions is Respondent Turkish Coalition of America, a Massachusetts corporation registered with the IRS as a 501(c)(3) tax-exempt organization. FECA prohibits contributions by corporations. Hence, these gifts are both excessive and impermissible

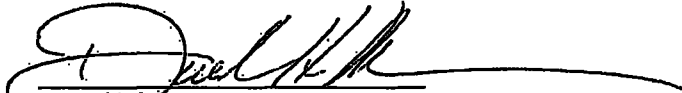
Beginning at least as early as 2008 and continuing into 2011, respondent Turkish Coalition of America has made excessive, impermissible contributions to the Schmidt for Congress Committee. And, respondents McCurdy, Fein, Saltzman, Brey, Morrison, and Watters, have attempted to conceal the source of these excessive, impermissible contributions.

WHEREFORE, David Krikorian requests that the FEC conduct an investigation into these allegations, declare the respondents to have violated the FECA and applicable FEC regulations, impose sanctions appropriate to these violations and take such further action as may be appropriate, including referring this case to the Department of Justice for criminal prosecution.

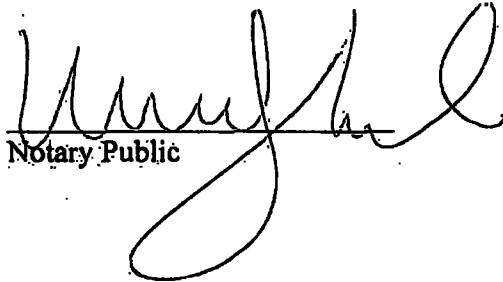

David Krikorian
8132 Camargo Woods Court
Cincinnati, OH 45243-2206
(513) 289-5265

⁴⁵ Jean Schmidt Financial Disclosure Form A dated May 15, 2012 page 12, Exhibit C.

David Krikorian hereby verifies that the statements made in the attached Complaint are,
upon information and belief, true. Sworn pursuant to 18 U.S.C. § 1001.


David Krikorian

Sworn to and subscribed before me this 15th day of June, 2012.


Notary Public



Miranda Jo Curl
Notary Public, State of Ohio
My Commission Expires 05-18-2016